



September 3, 2020

Via E-File

The Honorable Public Utilities Commission
of the State of Hawaii
Kekuana'o Building, First Floor
465 South King Street
Honolulu, Hawaii 96813

Re: Docket 2017-0122, Hu Honua Bioenergy, LLC's Response to the State of Hawaii Public Utilities Commission's ("PUC") Letter Dated September 2, 2020

Dear Commissioners:

Hu Honua Bioenergy, LLC ("Hu Honua") appreciates the PUC's letter dated September 2, 2020 ("Letter")¹ in which the PUC explained that

several of the public comments recently submitted in favor of Hu Honua's Project were not authorized by the email account holder. Specifically, on September 1, 2020, the Commission received seven emails clarifying that prior public comments filed in support of the Project that were attributed to their email accounts were not sent by the rightful account holder.²

Hu Honua shares the PUC's concerns and takes this matter very seriously as such actions are inappropriate and work against Hu Honua's true supporters. Hu Honua denies any involvement in this apparent email spoofing scheme. We make every effort to keep track of both solicited and unsolicited public comments in support, and we do not believe these 7 public comments are tied to our efforts to gain support for the Hu Honua project.

Hu Honua supports further investigation into this serious matter. It is our understanding that there are ways to identify the IP addresses and source associated with these 7 emails. We formally request that the state technical department that supports the DCCA and PUC, together with an independent technology firm if needed, determine the IP address(es) associated with these 7 emails to uncover the individual(s) involved in this deception. We also formally request that the PUC take affirmative steps to preserve such IP address(es) and related data in the event this information is relevant to claims and criminal charges against such individual(s).

In light of this serious matter, which appears to be an attempt to damage the reputation of Hu Honua and which has caused the PUC to prevent the disclosure of legitimate public

¹ Letter From: Commission To: Service List Re: Docket No. 2017-0122, In re: Hawaii Electric Light Co., Inc., Application for Approval of a Power Purchase Agreement for Renewable Dispatchable Firm Energy and Capacity, filed September 2, 2020.

² Id. at 1.

comments from September 1, 2020 forward, Hu Honua requests that before the PUC renders a decision on its Motion for Reconsideration, that the PUC fully investigate this issue as we believe that leaving this issue unresolved unfairly prejudices Hu Honua.

Hu Honua has commenced its own investigation as to what may have occurred.

Supporter Email Process

We are informed that one of the email processes for supporters of the Hu Honua project to submit public comments to the PUC had recently been updated. On Thursday, Aug 13, at 9:13 am, an “Email the PUC” button on the SaveHawaiiIslandJobs.com website with a “mail to” function and template that would open within an individual users own mail client was implemented.

On Thursday, August 27, after receiving messages that the “mail to” function would not open if the user did not have an email client installed (for example, if the person used a popular web-based email program like gmail through the gmail website), the website was updated to allow for the use of a “JotForm” where a supporter could input their own email address and submit public comments in support of the Hu Honua project via the website.

On September 2, 2020, Hu Honua received the PUC’s Letter referenced above.

On September 2, at 5:01 pm, we suspended the use of JotForm in order to introduce new verification and security protocols.

Hu Honua inquired with outside technology support and requested that a forensic investigation be undertaken to try to identify and determine the source or cause of the improper use of those email addresses.

Preliminary results of such investigation have revealed the following:

1. A SaveHawaiiIslandJobs.com website link to the public comments template referenced above were made available to thousands of individuals who had previously provided their email addresses on a petition to support the Hu Honua Project, requesting their further support – all of which was voluntary.
2. Once at the website, an individual was able to provide their email address and generate an email with comments in support of the Hu Honua project, and if they agreed with such comments, they were able to send these comments via email to the PUC.
3. All 7 public comment emails that the PUC identified in its September 2, 2020 Letter were sent via the website on Monday, September 1, 2020 between 10:59 pm and 11:46 pm (within a 47 minute span).
4. Google Analytics (a third party) reports that during that 47 minute time span, only a single click at 10:59 pm was made on the website (no other click to access the website was made during this 47 minute span). The single click originated from an IP address located in Honolulu, Hawaii.

5. The suspect 7 emails were all generated via this website during the 47 minute time span following this single click, which means that one person, located in Honolulu, clicked on the website one time then entered 7 different email addresses during this 47 minute time span. It is un-natural internet behavior for a single click to generate 7 separate emails unless it was the same individual who accessed the website during the single click and that same individual generated all 7 emails by entering 7 different email addresses into the website form.
6. The IP address has been identified and is located in Honolulu, Hawaii. We will be speaking with the authorities to determine potential criminal claims against the individual(s) associated with this IP address.

All 7 email responses to the PUC's auto-reply are highly suspicious given that (1) all 7 public comments using those email addresses appear to have been sent within the same 47 minute time-span: 10:59 pm; 11:04 pm; 11:24 pm; 11:35 pm; 11:45 pm; 11:46 pm; 11:46 pm, and (2) most of the those email responses claiming unauthorized use of email their addresses contain very similar characteristics, including word choice and use of all caps.

Based on our preliminary investigation, it appears that this is an isolated event intentionally caused by an individual(s) who is/are attempting to create controversy or discredit the large number of legitimate public comments in support of this project – comments made by real people who can be verified in connection with their unique email addresses. This incident does not change the fact that the vast majority of Hu Honua supporters live on Hawaii Island and have shared how the PUC's July 9, 2020 decision will negatively impact them and their community for decades to come.

While we share some of the PUC's concerns, we respectfully disagree with the PUC's action to "redact from public view the public comments filed in this proceeding from September 1, 2020, going forward, unless or until such time that a reliable and practical means of verifying the authenticity of the public comments can be implemented" which the PUC claims is "in the interest of protective the privacy of those whose emails may have been compromised."³

First, the PUC is assuming, without further investigation as to the source and credibility of those 7 emails claiming unauthorized use of their email addresses, that such emails and privacy concerns are legitimate. As it appears this is an isolated email spoofing event, we believe that it warrants disregarding those 7 emails only. It certainly does not warrant calling "into question the credibility and legality of other public comments filed in this docket", which the PUC notes "number in the thousands," especially given that the vast majority of public comments since the inception of the docket in 2017 are in support of the Hu Honua project. This isolated event should not result in the PUC discrediting the credibility and legality of such a large body of public comments, and doing so unfairly prejudices Hu Honua's position in this proceeding and is tantamount to the PUC disregarding the public interest.

Second, redacting from public view public comments filed in this proceeding from September 1, 2020 forward inappropriately censors relevant public comments that may inform the general public and allow the general public to submit further public comments for the PUC's

³ Letter, at 1.

consideration. By preventing the public disclosure of public comments, the PUC is suppressing potentially relevant information that the public has a right to review to help form their opinions regarding the project which, in turn, should be considered by the PUC in any decision-making to the extent such comments relate to the public interest. Hu Honua is unaware of any statutory or other authority that allows the PUC to unilaterally block the disclosure of public comments from the general public. In addition, the PUC has not issued any form of protective order that allows for the protection of such information.

Finally, to the extent the PUC is knowingly preventing the public disclosure of public comments based on the purported privacy concerns raised in an isolated occurrence of 7 suspect emails transmitted to the PUC on a single day (during a nearly 4 year proceeding), even though such privacy claims appear to be based on email spoofing efforts intended to call into questions the legitimacy of public comments in support of the Hu Honua project, the PUC would be magnifying these efforts by preventing the disclosure of legitimate public comments that are relevant to this proceeding.

Respectfully, Hu Honua submits that the privacy concerns regarding 7 individuals' email addresses should be investigated. Hu Honua is willing to cooperate with the state technical department for the PUC or DCCA to determine how this may have occurred and to identify who is responsible. The PUC should determine the IP addresses of the 7 emails to verify their origin and compare or match it to the IP address that Hu Honua has identified as the single click on the website. Further, it should contact these individuals to verify them as real people associated with these email addresses and confirm their legitimacy. Until an investigation conclusively demonstrates that these 7 emails are, in fact, the legitimate privacy concerns of real persons, it is inappropriate to impose an unprecedented censorship of all public comments from September 1, 2020 forward. At most, the only public comments that should be censored or disregarded at this time are the 7 emails identified by the PUC.

While unfortunate, this event should not outweigh the right of the vast majority of public commenters (both for and against the project) to have their voices heard and considered publicly regarding the Hu Honua project and its impact on the Hawaii Island community. As discussed above, a blanket censorship of public comments potentially prejudices Hu Honua's position in this proceeding. Public comments submitted in this proceeding not only informs the PUC, but also the general public which, in turn, forms the basis of further public comments that may ultimately weigh on PUC decision-making. Thus, the availability of public comments is of paramount importance and should be protected. We ask that this matter be fully investigated, corrected and public comments be made publicly available again as soon as possible.

Very truly yours,

Warren Lee

A handwritten signature in black ink, appearing to read "Warren Lee", written in a cursive style.

Enclosure

cc: Docket 2017-0122 Service List

FILED

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